

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

United States of America, <i>et al.</i> ,)	Civil Action No. 9:14-cv-00230-RMG
)	(Consolidated with 9:11-cv-1593-RMG and
Plaintiffs,)	9:15-cv-2458-RMG)
)	
<i>ex rel.</i> Scarlett Lutz, <i>et al.</i> ,)	
)	
Plaintiffs-Relators,)	ORDER and OPINION
)	
v.)	
)	
Berkeley Heartlab, Inc., <i>et al.</i> ,)	
)	
Defendants.)	
)	

This matter is before the Court on Defendants' Objections to the Government's Deposition Designations for Defendant Robert Bradford Johnson and Defendant Floyd Calhoun Dent, III, and the Government's Objections to Defendants' Counter-Designations. (Dkt. No. 761.) The Court has ruled on each Objection as set forth below.

I. Deposition of Robert Bradford Johnson (Dkt. No. 761-3)

Government's Designation	Defendants' Objections	Ruling
Pg. 12, Ln. 24 – Pg. 14, Ln. 16 <u>and</u>	Statements about Johnson's other business assets are irrelevant.	Objection is denied because statements are relevant and prejudice does not outweigh probative value.
Pg. 15, Ln. 9 – Pg. 16, Ln. 10		

Pg. 42, Ln. 22 – Pg. 44, Ln. 8 <u>and</u> Pg. 69, Ln. 17 – Pg. 70, Ln. 3 <u>and</u> Pg. 73, Ln. 7-16	Information about Johnson's salary from over a decade ago is irrelevant.	Objection is denied because statements are relevant and prejudice does not outweigh probative value.
Pg. 153, Ln. 2-8	No objection, but Government objects to Defendants' counter-designation [Pg. 153, Ln. 19 – Pg. 154, Ln. 1] for being beyond the scope of the designation.	Government's objection to counter-designation is denied.
Pg. 204, Ln. 15 – Pg. 205, Ln. 12	No objection, but Government objects to Defendants' counter-designation [Pg. 205, Ln. 22 – Pg. 206, Ln. 17] for being beyond the scope of the designation.	Government's objection to counter-designation is denied.
Pg. 213, Ln. 23 – Pg. 215, Ln. 15	Information about earnings of other businesses compared to BlueWave is more prejudicial than probative.	Objection is denied because statements are relevant and prejudice does not outweigh probative value.
Pg. 232, Ln. 11 – Pg. 233, Ln. 19	No objection, but Government objects to Defendants' counter-designation [Pg. 235, Ln. 7 -14] for being beyond the scope of the designation.	Government's objection to counter-designation is denied.

II. Deposition of Floyd Calhoun Dent, III (Dkt. No. 761-2)

Government's Designation	Defendants' Objections	Ruling
Pg. 8, Ln. 2-5 <u>and</u> Pg. 88, Ln. 4-25	Testimony of Dent's past salaries at different jobs is irrelevant and prejudicial.	Objection is denied because statements are relevant and prejudice does not outweigh probative value.
Pg. 180, Ln. 24 – Pg. 184, Ln. 16	No objection, but Government objects to Defendants' counter-designation [Pg. 184, Ln. 17 – Pg. 185, Ln. 13] for being beyond the	Government's objection to counter-designation is denied.

	scope of the designation and that deponent's answers are non-responsive.	
Pg. 185, Ln. 14-24	No objection, but Government objects to Defendants' counter-designation [Pg. 185, Ln. 25 – Pg. 186, Ln. 15] for being beyond the scope of the designation.	Government's objection to counter-designation is denied.

III. 30(b)(6) Deposition of Floyd Calhoun Dent, III (Dkt. No. 761-4)

Government's Designation	Defendants' Objections	Ruling
Pg. 86, Ln. 14 – Pg. 87, Ln. 23	Description of an old office building as looking like "an old crack shack" has no probative value, is confusing and wastes time and is unfairly prejudicial.	Objection is sustained because prejudice outweighs probative value.
Pg. 110, Ln. 15 – Pg. 111, Ln. 7	No objection, but Government objects to Defendants' counter-designation [Pg. 111, Ln. 8-19] for being beyond the scope of the designation and that deponent's answers are non-responsive.	Government's objection to counter-designation is denied.
Pg. 143, Ln. 25 – Pg. 145, Ln. 9	Objection to profits and revenues of BlueWave has received court ruling, but defendants preserve and do not waive the objection.	Objection denied as already ruled in Order on Motion in Limine, Dkt. No. 727 at 10-11.
Pg. 172, Ln. 23 – Pg. 173, Ln. 5	No objection, but Government objects to Defendants' counter-designation [Pg. 173, Ln. 6 – 174, Ln. 9] for being beyond the scope of the designation and that deponent's answers are non-responsive.	Government's objection to counter-designation is denied.

Pg. 185, Ln. 24 – Pg. 186, Ln. 6	<p>Objection under Rule 602 of the Federal Rules of Evidence that the witness is asked about a document he did not prepare and is not familiar with.</p> <p>Government objects to Defendants' counter-designation [Pg. 186, Ln. 7 – 25] for being beyond the scope of the designation.</p>	<p>Objection is denied because witness answered questions without indicating any lack of familiarity or knowledge.</p> <p>Government's objection to counter-designation is denied.</p>
-------------------------------------	--	--

AND IT IS SO ORDERED.



Richard Mark Dergel
United States District Court Judge

December 1, 2017
Charleston, South Carolina